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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-first session

SUMMARY RECORD OF THE 550th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 31 May 1999, at 3 p.m.

Chairperson: Mr. RABAH

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 6) (continued)

Second periodic report of Nicaragua (CRC/C/65/Add.4) (CRC/C/65/Add.14; CRC/C/15/Add.36; CRC/C/Q/NIC/2; written replies by the Government of Nicaragua to the questions on the list of issues)

1. At the invitation of the Chairperson, the members of the delegation of Nicaragua resumed their places at the Committee table.

2. The CHAIRPERSON invited the members of the Committee to ask questions on civil rights and freedoms and family environment and alternative care.

3. Mr. DOEK, referring to substitute homes (CRC/C/65/Add.4, para. 193) asked what criteria governed the placement of children in such homes, how the homes were chosen, if the "substitute parents" were required to take a training course or to have specific qualifications, whether they were paid and whether they could be a member of the child's family. He would also like to know whether the decision to remove a child from his or her natural family in situations of violence, particularly sexual abuse, was based on a court judgement and whether the parents' consent was required. Were such placements permanent? Did those responsible for review of placement think in terms of restoring the child to his or her natural family or did they focus on ensuring that placement conditions were satisfactory? He would also like to know what programmes were available to help child victims of abuse and domestic violence, whether they had access to complaint mechanisms and whether a reporting procedure existed for witnesses of child abuse.

4. Mrs. OUEDRAOGO asked what measures were taken when relations between an adoptive family and the adopted child deteriorated, given that adoption could not be repealed or terminated by agreement between the parties. She would like to know whether there were plans to revise the Adoption Act, in force since 1981, to take account of subsequent developments.

5. Mrs. KARP noted that there was no mention either in the periodic report or the supplementary report of measures taken, in accordance with the recommendation contained in paragraph 34 of the Committee's concluding observations on the initial report of Nicaragua (CRC/C/15/Add.36), to protect children from information and material injurious to their well-being and to protect their right to privacy. Was pornography prohibited under the Family Code, or under criminal law in general, and what was the attitude of the Nicaraguan people to respect for privacy? She would like to know why Nicaragua had not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, how the authorities dealt with police brutality and whether complaints resulted in criminal proceedings. In addition, she asked what training was given to law enforcement officers and prison staff in the prevention of violence and what measures were taken to improve the treatment of detainees, which was occasionally degrading.

6. She asked whether corporal punishment, which was prohibited by law, had actually been abolished in the schools, how complaints of corporal punishment were dealt with, and, in the

family context, whether parents were aware of the problem and encouraged to use other methods of child-rearing. She would also like details on the measures taken to guarantee that child abusers appeared in court and to provide battered women with effective remedies. She asked whether Nicaragua intended to ratify the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption. Lastly, she would like to know what was being done to put into effect the Committee's recommendations encouraging Nicaragua to organize a better-coordinated campaign to deal with the large number of broken homes and the relatively high rate of maternal mortality, teenage pregnancies and early marriage.

7. Mrs. SARDENBERG asked what measures the Government had taken to improve birth registrations, which were a pre-requirement for full citizenship for everyone. She would also like to know whether the authorities were cooperating with the media in the area of education and prevention of discrimination, given the high illiteracy rate in Nicaragua. Was the increase in the number of complaints submitted for violence against women due to an increase in the number of cases, increased awareness by the women themselves or an improvement in reporting and complaint procedures? Lastly, she would like to know the status of the pilot project begun by the Commissariat for Women and Children, whose main objective was to improve services for abused women and girls.

8. Ms. FRECH (Nicaragua), replying to a question about cooperation between the Government and non-governmental organizations (NGOs), said that two representatives of NGOs were members of the National Commission for the Promotion and Defence of the Rights of the Child and that five representatives of NGOs had helped prepare the new legislation on children and adolescents. The pilot project, which was launched under the Programme for the Integral Care of Nicaraguan Children (PAININ), whose general objective was to improve the welfare of children in conditions of extreme poverty in urban and rural areas, was implemented primarily by NGOs working in the field. NGOs also took part in the programme of action to combat child abuse sponsored by the Ministry of the Family and in the various activities conducted by the Ministry of Social Services. They were also very active at the community level.

9. Replying to a question raised by Mr. Doek, she said that children made up 53 per cent of the Nicaraguan population, and that unfortunately many of them were orphans. Before placing them in specialized centres, the services responsible always sought to take advantage of the family, if available, and to place the child in his or her extended family. All decisions concerning the placement of children in a foster family were taken in consultation with the child concerned.

10. Children were now able to submit complaints of ill-treatment to the local police station or a children's judge, but such procedures would be furtherr improved under the new legislation on children and adolescents. All decisions taken by judges were applied with the consent of the father, mother and child. In that connection, the Code on Children and Adolescents was a legal instrument requiring the family, society, the State and private institutions to recognize the child as an individual. Parents could also submit complaints against a teacher for violating a child's rights.

11. Concerning young people serving custodial sentences, she drew the Committee's attention to a project on enhanced support for young prisoners, implemented jointly by the

National Commission for the Promotion and Defence of the Rights of the Child and the prison system, whose objective was to remedy deficiencies in the legal and social fields where young prisoners were concerned and which was part of an effort to treat minors differently from adults. The project was designed to improve facilities in the adolescents' wing (wing No. 7 of Tipitapa prison), prospects for re-insertion into society and medical and psychological care for the target group. The Supreme Court of Justice had appointed two specialized judges to ensure the protection of adolescents in two Nicaraguan cities. She appealed to the international community to help Nicaragua establish two rehabilitation centres for children in conflict with the law who had not committed serious offences; the centres would focus on prevention and education as alternative solutions to traditional penal methods.

12. Ms. JIRON (Nicaragua), reverting to foster homes, said that foster parents were selected less on the basis of financial considerations than on their expressed desire to take in a child who had had to leave his or her natural family. Such forms of care were always temporary measures, unlike adoption which was irrevocable except in cases of procedural error. The adoption procedure took place in two phases: the administrative phase, in which the authorities conducted an inquiry into the psychosocial balance of the adopted family, followed by the judicial phase, which confirmed the administrative decision. The Adoption Act provided for adoption by foreign nationals, and, as irregularities in such adoptions had been observed, efforts currently focused on regulations to provide appropriate follow-up. As its domestic legislation contained sufficient provisions in that area, Nicaragua had not ratified the Hague Convention and did not plan to do so.

13. Nicaragua had not ratified the Convention against Torture, but the Constitution stipulated that all persons had the right to respect for their physical, psychological and moral integrity and that any violation of that integrity was an offence. It was true that no instrument existed as yet for monitoring the enforcement of those constitutional principles. However, the police services contained units for inquiring into allegations of police brutality.

14. Ms. FRECH (Nicaragua), referring to respect for the child's privacy, said that although freedom of expression and freedom of the press were set forth in the Constitution, the Code on Children and Adolescents prohibited publication of the names of child defendants in criminal cases or of children involved in pornography cases. That prohibition was not always observed, but an association of journalists working for children's rights had recently been established.

15. With regard to corporal punishment, the Code on Children and Adolescents and the Penal Code provided for the submission of complaints of ill-treatment and Act No. 230 dealt specifically with domestic violence.

16. Ms. JIRON (Nicaragua) said that the idea of children as being their parents' property was unfortunately still firmly entrenched in people's mentalities; legislative provisions were not sufficient to eradicate such practices. Battered women's and children's centres had been established. Those projects were at the pilot stage as yet and did not exist throughout the country. However, such services were also provided by the Commissariat for Women and Children, which covered the entire country.

17. Ms. FRECH (Nicaragua) said that the plan undertaken for establishing birth registration centres in hospitals, combined with the pilot project for the registration of unregistered children from 1 to 15 years of age and with television, radio and newspaper campaigns, had had excellent results: the number of registrations had nearly doubled between 1997 and 1998.

18. Ms. PEREZ (Nicaragua) said that the problem of violence, in all forms, was taken very seriously by the Government. The Ministry of Education, in cooperation with the Ministry of Health, had established a commission and developed a plan of action, intended for the schools, for the prevention of early pregnancies. The Government was also working with parents and children on a project for the prevention of violence in the schools. In addition, a handbook on dealing with children and adolescents had been distributed to the members of the police at the beginning of 1999. The implementation of the handbook was currently being evaluated. Furthermore, violence in the family was beginning to be regarded as a public health problem, and the increased number of complaints of ill-treatment showed that awareness-raising efforts had been successful and that women were no longer afraid to speak out.

19. Mr. DOEK said he was deeply concerned at the high number of pregnancies among girls 15 to 19 years of age. He asked what concrete measures had been taken by the State party to prevent such pregnancies, whether girls were able to have abortions and whether it was possible for them to go back to school after having their babies. He would also like to know what measures were being taken to reduce the school drop-out rate, which was also very high.

20. Mrs. KARP noted that asking the police to conduct inquiries into police brutality was a delicate matter and asked whether there were plans to establish an independent body for such inquiries. The fact that the health services were accessible to only 35 per cent of the population was also a matter of concern. Had strategies been developed to increase coverage? What had been done to implement the Committee's recommendations on the prevention of maternal mortality and early pregnancies? Lastly, had there been studies on the prevalence of violence among schoolchildren?

21. Mrs. OUEDRAOGO asked for further details about the programmes on adolescent health. Had the Committee's recommendations on adolescent health been put into practice, and if so, how? She had also been informed that there was a severe lack of basic medicines in the hospitals. As private clinics were too expensive for a large part of the population, how did the Government help low-income families gain access to medicines? For example, had consideration been given to using generic medicines?

22. No mention was made of social security, child-minding services or the goals of education in Nicaragua's report. She would appreciate details about those issues. She would also like to know the progress achieved and problems encountered in implementing the plans of action to rescue street children and the pilot schools for older pupils. Lastly, she asked what was the highest level of the intercultural bilingual education programme and whether the pupils in the programme could subsequently join the main educational system, in order not to become marginalized.

23. Mrs. SARDENBERG asked whether there were programmes in Nicaragua for preventing family break-ups and raising parents' awareness of their responsibilities. She would also

appreciate information on the education and health programmes. Concerning education, there was an undeniable link between the absence of compulsory education and the problems of child labour and street children. Noting that Nicaragua had the highest school drop-out rate in the region, she asked whether it had put the Committee's recommendations in that area into practice, especially regarding the awarding of scholarships, and whether it had taken concrete measures to combat child labour.

24. Mrs. KARP said she gathered that Nicaragua was planning to privatize certain schools. She wondered whether privatization might not further accentuate the disparities between urban and rural areas and be to the detriment of the schools which remained in the public education system. She was also deeply concerned about commercial sexual exploitation of children, which appeared to be worsening. Had studies been undertaken to understand the problem and define appropriate strategies?

25. Mr. DOEK, referring to child labour, said that paragraph 240 of the report stated that labour inspectors only had access to the structured sector and asked whether it had been possible to change that situation. He would also like to know what measures of protection were available for persons hired as domestics, especially children, for example whether it was necessary to have a permit to hire them. Lastly, he asked in what cases pre-trial detention could be ordered, who took the decision, whether there was a time-limit for pre-trial detention and whether detained children were able to see their parents.

26. Mrs. OUEDRAOGO asked how many school-aged children were living with HIV/AIDS and whether the Government was taking special measures to ensure that they were not subjected to discrimination. She would also like to know whether an educational programme had been established to reduce the number of early pregnancies and clandestine abortions. Lastly, she would like information on children affected by landmines, on the traffic, sale and abduction of children and on the measures planned or taken by the Government to provide children with full protection.

The meeting was suspended at 4.30 p.m. and resumed at 4.45 p.m.

28. Ms. FRECH (Nicaragua) said that a commission made up of governmental and non-governmental organizations, coordinated by the Ministry of Education, Culture and Sport, was currently preparing a reproductive health action plan designed to prevent teenage pregnancies, to be implemented in the schools. A project on the prevention of violence would aim particularly at child victims of sexual abuse. A coordinating group had also been working for three years, in cooperation with various governmental and non-governmental organizations, to combat drug abuse among young people, and a national anti-drug council, comprised of

sub-commissions, was shortly to be established in order to promote healthy living through prevention programmes. Fifty young people's clubs throughout the country had helped to prepare a manual on adolescent sexual health and a specialized mental health team was working in children's hospitals to strengthen psychosocial care. There were no special programmes in Nicaragua to combat adolescent suicides. On the other hand, a national programme for the prevention of sexually transmitted diseases covered the entire population and a multisectoral AIDS prevention project was being conducted in the schools. A manual containing information on health and on AIDS was distributed to the members of the police and army.

29. Immunization coverage of Nicaraguan children in 1998 had been 79.7 per cent for diphtheria, whooping cough and tetanus, 83 per cent for polio and 85.7 per cent for mumps. Prevalence of diarrhoeal diseases among children was 14 per cent. However, additional funds would be allocated to provide better coverage of children who did not yet have access to health care. The Government also continued to focus systematically on street children and conducted psychosocial surveys among families in an effort to reduce the number of such children. A plan of action to rescue street children (SEMAFOROS) had led to the school enrolment of 651 of the 1,100 street children identified in 1997. In 1998, 250 children from 198 families had been part of a social support programme sponsored by the Ministry of the Family. Primary education programmes had been amended in 1994 to include human rights concepts, and in 1997 the National Commission for the Promotion and Defence of the Rights of the Child, in cooperation with UNICEF, had established a network of trainers to teach the principles contained in the Convention on the Rights of the Child and the Code on Children and Adolescents.

30. Ms. PEREZ (Nicaragua) said that due to budgetary limitations the Government had chosen to give priority to primary health care and primary education. The directors of the Programme for the Integral Care of Nicaraguan Children (PAININ) focused on the establishment of community children's centres which worked together with the municipalities and NGOs to provide early childhood stimulation and daily care in poor rural communities and marginal urban communities, with family participation. The Ministry of Education had also established, with technical and financial support from UNICEF, seven pilot schools for older pupils, which used teaching materials and audio-visual resources adapted to children beginning school late, in particular working children. The Intercultural Bilingual Programme was conducted in the children's mother tongue, with Spanish taught as a second language. The school autonomy programme was not aimed at privatizing education but rather at involving parents, teachers, students and administrators in decisions concerning the allocation of funds for education. Regarding the sexual exploitation of children, Nicaragua had taken part in a seminar held in Montevideo at the initiative of the Inter-American Children's Institute to study the extent of the problem, the seminar had resulted in an 8-point declaration which took into account the recommendations issued by the Stockholm World Congress against Commercial Sexual Exploitation of Children.

31. Ms. JIRON (Nicaragua) said that the entry into force of the Code on Children and Adolescents had led to substantial progress in the protection of minors in Nicaragua. Book III of the Code established the system of specialized criminal justice for adolescents who broke the criminal law, which was being introduced progressively and should be operational in November 1999. The Supreme Court of Justice, the highest judicial body, had appointed two specialized judges, one serving in Managua and the other in Dario, a city in the northern part of

the country. The new system should make it possible to provide children with fair and equitable trials. Among the provisions of the new Code, article 147 stipulated that the period of pre-trial detention for minors was not to exceed three months. That having been said, adolescents were only held in pre-trial detention for offences in flagrante and for particularly serious crimes; in all other cases a reconciliation attempt was possible in order to avoid prosecution. With that measure the Government intended to replace a punitive approach by an educational approach. According to the latest available statistics, the most frequent offences committed by minors were offences against property, which attested to the close link between juvenile delinquency and the economic situation of adolescents. She acknowledged that minors' prison conditions were highly inadequate. A skills-building programme was under way in an effort to improve them, but funding was insufficient. The courts made increasing use of alternative sentences.

32. There were three mechanisms for monitoring the police and armed forces: the Office of the Chief Inspector of the Police, which was an internal monitoring body, the military courts, which tried cases of complaints against members of the military and police, and the civil inspection department, which was an independent body. It was true that abortion was prohibited under the Nicaraguan Penal Code, but due to the efforts of women's liberation movements that provision was no longer applied. The national mine clearance plan had recently been amended in order to place greater emphasis on the rehabilitation of child victims of landmines. A bank of prosthetic devices had also been established.

33. Ms. PEREZ (Nicaragua) said that in June 1996 the Government of Nicaragua and ILO had signed a memorandum of understanding on the implementation of the International Programme for the Elimination of Child Labour (IPEC), which had led the authorities to take a number of measures in that area. A new Labour Code containing an entire chapter on child labour had entered into force in 1997. The Code set the minimum age of admission to employment at 14. The National Commission for the Progressive Eradication of Child Labour and the Protection of Juvenile Workers had been established the same year. Similarly, ministerial orders on minimum measures of protection for seafarers had been issued, one prohibiting the employment of minors under 16 years of age and the other prohibiting the employment of minors under 14 years of age in free zones. The 1998 wage settlement prohibited the hiring of young people under 14 years of age for the coffee harvest. With assistance from UNICEF, the Government conducted a large-scale media campaign to raise awareness of the problem of child labour and appropriate training was provided for all officials concerned, in particular the representatives of the Ministry of Labour. In that connection, a project to enhance the labour inspectorate services at the national, departmental and municipal levels was being prepared, the objective of which was to provide labour inspectors with the technical and methodological tools they required to enforce the new regulations on child labour.

34. Ms. FRECH (Nicaragua) said that the Ministry of Labour had just signed an agreement with ILO for the reinsertion of children working in waste disposal dumps in Managua and Chinandega.

35. Mrs. TIGERSTEDT-TÄHTELÄ asked whether the Government had considered the possibility of setting up a social security system based on employers' and workers' contributions, to reduce the budgetary deficit caused by health expenditures.

36. Mrs. OUEDRAOGO asked for details about AIDS and young people.

37. Mrs. KARP asked why a convicted child was given only three days to appeal. She would also like to know whether minors between 13 and 15 years of age could be placed in pre-trial detention, given that they could not be sentenced to imprisonment. She welcomed the establishment of a conciliation mechanism for minors and asked how the views of the child were taken into account under that procedure.

38. Mr. DOEK asked about the situation of the 250 adolescents awaiting trial mentioned in paragraph 96 of the supplementary report (CRC/C/65/Add.14).

39. The CHAIRPERSON, noting that paragraph 262 of the second periodic report stated that minors in preventive detention were not separated from adults, asked whether the Government of Nicaragua had considered measures to correct that situation.

40. Ms. FRECH (Nicaragua) said that minors in preventive detention were housed separately from adults. However, the Government was aware that it would be preferable to place them in detention centres for minors. Plans were being made to build centres, but funds were unfortunately not yet sufficient. The Government was also aware of its shortcomings in the health sector, which was given priority in the reconstruction plan submitted to the donor countries at the Stockholm meeting to assist the Central American countries which had been victims of Hurricane Mitch.

41. Ms. PEREZ (Nicaragua) said that her delegation did not have precise information on the number of children infected with HIV/AIDS. However, she could mention a national HIV/AIDS prevention programme and a joint Ministry of Health/Ministry of Education programme to raise awareness of the AIDS pandemic among school-age children. Nevertheless, prevention activities focusing on young people were generally insufficient and Nicaragua was in urgent need of international cooperation in that area.

42. Ms. JIRON (Nicaragua) said that, although the conciliation procedure had been introduced only recently, it was already showing excellent results. It was conducted by an interdisciplinary team with participation by the child, if sufficiently mature, or if not, by the child's representative. Children under 13 years of age could not be tried, they were covered by a special administrative procedure. Children from 13 to 15 years of age could be tried but could not be sentenced to imprisonment. However, they could be placed in pre-trial detention in cases of offences in flagrante or serious crimes. To speed up the procedure, the time-limit for appeal was indeed three days, for both minors and adults. That having been said, if the application for appeal was accepted, the applicant was given extra time to prepare his or her case. The system of administration of justice for minors was still new and time would be needed to learn the necessary lessons and determine how to improve it.

43. Ms. PEREZ (Nicaragua), concluding the presentation of her country's second periodic report, assured the members of the Committee of the Nicaraguan Government's commitment to usher in a culture of democracy and respect for human rights in general and the rights of the child in particular.

44 The CHAIRPERSON thanked the delegation for its cooperation and said that the Committee had concluded its consideration of the second periodic report of Nicaragua.

The meeting rose at 5.55 p.m.